

TITLE III: Land Use Code and Regulations

Chapter V: Subdivision Regulations

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SECTION 1.00: GENERAL PROVISIONS.

1.01 PURPOSE. The general purpose of this Regulation is to protect the public health, safety, convenience, prosperity and general welfare of the Town, consistent with the policies of the Master Plan, as lots are divided, new land use patterns are established, and new roads and other infrastructure are built. Throughout this Regulation, the Board seeks to balance the process of growth, development and change with the need to protect and enhance those qualities, which make Newmarket a safe and desirable place to live, work and visit. In keeping with this general purpose, the following are specific objectives:

- (A) Provide against such scattered or premature subdivision of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire protection, or other public services, or necessitate the excessive expenditure of public funds for the supply of such services;
- (B) Provide for the harmonious development and redevelopment of the Town and its environs;
- (C) Provide adequate and coordinated open space, neighborhood parks, and other recreation areas with adequate public access;
- (D) Provide for proper spacing and patterns of properties and buildings to ensure adequate sunlight and air circulation, access for firefighting apparatus and equipment to buildings, and establishment of land use patterns compatible with traditional New England design, especially in new residential neighborhoods;
- (E) Ensure that land is of sufficient character to be used for building purposes without danger to health, and additionally ensuring that development does not exceed the capability of the land to safely provide on-site water supply and sewage disposal in areas not served by municipal water and sewer systems;
- (F) Facilitate adequate provision of public facilities, utilities and services; and
- (G) Require proper arrangement, design, and construction of streets, sidewalks, pedestrian and bicycle paths, and other transportation improvements to compose a safe, convenient and environmentally compatible system of vehicular and pedestrian travel which integrates with the overall Town and regional systems.

1.02 AUTHORITY. Under authority of RSA 764:35 and authorization from Town Meeting, as amended, the Planning Board repeals the previous Subdivision Regulations and hereby adopts this new Regulation on June 13, 1995.

1.03 DEFINITIONS. Definitions shall be those provided in the Newmarket Zoning Ordinance adopted February 14, 1996, in Zoning Ordinance §1.11, and the additional definitions as follows:

Boundary Line Adjustment. 1) The alteration of lot boundaries between two or more adjoining lots which does not increase the number of lots. 2) The creation of a different form or division of ownership of an existing property, which does not require physical changes.

Major Subdivision. 1) The division of a lot into a greater number of lots, but which does not fit the definition of a Minor Subdivision. 2) An increase in the number of residential units on a single lot, but which does not fit the definition of a Minor Subdivision.

Minor Subdivision. 1) The division of a lot into a greater number of lots, provided that: no new road is required; that there is no potential for a road to be required for the full development of any remaining developable portion of the land; and that the resulting number of lots does not exceed six. 2) An increase in the number of residential units on a single lot, provided that the total proposed number of such units does not exceed six.

Subdivision. Division of a lot into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. It includes re-subdivision and, where appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among several owners shall be deemed a subdivision. The granting of an easement in gross for public utilities shall not be deemed a subdivision.

1.04 COMMUNICATIONS BETWEEN TOWN AND APPLICANT. There are many people involved in the processing of each application, and communication problems develop quickly if great care is not taken from the start. To prevent communication problems from developing, it is important for both the Town and the applicant to designate one person each to coordinate all communications. This prevents repetition of questions, prevents two people from giving different answers to the same question, and should help to keep interpretation consistent.

(A) Applicant's Authorized Representative. The application form requires designation of one person to act as the "authorized representative." All communication to the applicant shall be made through this person, and this person shall be present at all meetings with the Board. In the text of this Regulations, references to the

applicant shall also imply the authorized representative.

(B) Town.

- (1) All communications to the Town shall be directed to the Planning Board Secretary unless otherwise directed by the Chairman of the Board. This may be common during larger applications, such as when an engineer reviewing the road design needs to talk to the design engineer to clarify issues.
- (2) Individual Board members shall not discuss the application with the applicant, abutters, or any other person associated or affected by the application except at the Board meetings, which may include formal site visits with the applicant. Otherwise, all questions should be directed to the Planning Board Secretary. This procedure is essential to ensure that all Board members and the public receive the same information about the application, and that all Board members are therefore equally able to render the best decision possible.

1.05 APPLICABILITY. These Regulations cover the following types of activities:

- (A) Lot Consolidation. Pursuant to RSA 674:39-a, the combination of two or more lots under common ownership to form a single lot requires that the Board approve, sign and record at the Rockingham County Registry of Deeds a Notice of Merger. A copy shall also be provided to the Town Assessor. The Board shall approve the merger so long as it does not create (or worsen existing) violation(s) of the land use codes. To obtain the Board's approval, this item must be placed on the agenda of a regular meeting of the Board. No public hearing or abutter notice is required. All costs shall be paid by the lot owner.
- (B) Subdivisions. This Regulation provides for three different types of applications, each with its own specific requirements:
 - (1) Boundary Line Adjustment. The alteration of lot boundaries between two or more adjoining lots which does not increase the number of lots; or the creation of a different form or division of ownership of an

existing property, which does not require physical changes. Further information and instructions are provided in §2.03.

- (2) Minor Subdivision. This can be either of two types of proposal. First, the division of a lot into a greater number of lots, provided that: no new road is required; that there is no potential for a road to be required for the full development of any remaining developable portion of land within the original lot; and that the resulting number of lots does not exceed six. Second, an increase in the number of residential units on a single lot, provided that the total proposed number of such units does not exceed six. Further information and instructions are provided in §2.04.
- (3) Major Subdivision. This can be either of two types of proposal. First, the division of a lot into a greater number of lots, but which does not fit the definition of a Minor Subdivision. Second, an increase in the number of residential units on a single lot, but which does not fit the definition of a Minor Subdivision. Further information and instructions are provided in §2.05.

1.06 ABOUT TOWN REGULATIONS.

- (A) Related Town Codes. The Town of Newmarket has other regulations, which may affect an application, as follows:

Chapter I:	Planning Board Bylaws
Chapter II:	Conservation Commission Bylaws
Chapter III:	Zoning Board of Adjustment Bylaws
Chapter IV:	Zoning Ordinance
Chapter V:	Subdivision Regulations
Chapter VI:	Site Plan Review Regulations
Chapter VII:	Excavation Regulations

- (B) Organization and Cross-references. To fully understand this code, it is important to understand how this Regulation is organized and cross-referenced.

- (1) Organization of this Regulation.

- (a) Sections. This Regulation is divided into six Sections. Each Section is simply a grouping of related issues or requirements, and readers should identify the article in which an answer is likely to be found. The six sections are:

§1.00 General Provisions.

§2.00 Application Procedures.

- §3.00 Design Standards.
- §4.00 Plat Standards.
- §5.00 Administration.
- §6.00 Application Forms and Checklists.

(b) Sub-sections. Each Section is divided into sub-sections, each of which may be further divided as needed. It is easiest to use the **Table of Contents** to locate the major sub-sections.

(2) Cross-referencing System. Within this Regulation, there are many references to other Sections of this code. These cross-references are provided to help the reader find needed information, and to inform the reader of related provisions. The reference for this General Provisions Section is written as follows:

§1.00

The symbol "§" means section. In all cases, the information following the "§" starts with the Section, then the sub-sections in descending order. The reference for this subsection is written as follows:

§1.06(B)(2)

The number to the left of the decimal point refers to the Section, the number following the decimal point is the sub-section, and so forth. Additional levels of hierarchy would be shown as follows:

§1.01(B)(3)(c)[2][e]

The reader should note that only the first letter is capitalized, and that the rounded parentheses are used before the square parentheses. Also, the text of each level is indented farther than the previous level.

- (C) The term "shall" requires a mandatory action in all cases, while "should" implies that the action is appropriate in most cases. The Board is responsible for deciding, on a case-by-case basis, how to apply the "should" provisions.
- (D) State Laws. State laws are referenced frequently in this Regulation. In New Hampshire, State laws are known as Revised Statutes Annotated, which is abbreviated as, "RSA," and are followed by the appropriate chapter and section references.

1.07 GENERAL GUIDANCE. The following advice is offered to assist the applicant, especially if the applicant is unfamiliar with land development processes.

- (A) All applicants will need to hire professionals to prepare part or all of the application. In all cases, a NH Licensed Land Surveyor is required. In some cases, other specialists will be needed, possibly including a licensed Professional Engineer, an attorney, a soil scientist, or others. While such assistance does cost money, their skills and abilities are essential to ensure that the Town and applicant have sound information on which to base their decisions.
- (B) The Board is concerned about processing all applications fairly and quickly. To accomplish this, the applicant shares certain responsibilities. The applicant must be properly prepared. This includes reading this Regulations to understand the issues, which must be addressed, and includes dealing with all the significant issues up front. Incomplete submittals, or failure to properly address issues will result in unnecessary delays in obtaining a final decision from the Board.
- (C) The application process is similar for all applications, although the amount of work and time to obtain an approval vary widely.
- (1) All applications follow this basic process:
- Preparation. The applicant prepares the application, usually done by hired professionals. This may involve some discussion with the Board through conceptual consultation or design review meetings.
 - Application Acceptance. Upon submittal of the application materials to the Town, the application is placed on the next available Planning Board agenda for consideration. By State law, there is a minimum lead-time of 15 days.
 - Scattered & Premature. The Board may make certain findings that a proposed development is scattered & premature, which may lead to modification of the application or could result in denial.
 - Road Layout. For Major Subdivisions only, the Board requires extra meetings to discuss road layout and function before it will accept or review final road design plans. This permits transportation issues to be discussed conceptually before the exact details of specific designs are developed.
 - Public Hearing. All applications will have a public hearing. This is the official opportunity for the public to ask questions about the application, to raise issues, offer suggestions, or indicate their support or opposition. The Hearing may be interspersed with periods of deliberation by the Board, and may be continued to

future dates.

- Decision. In the end, the Board must decide whether to approve or deny the application. In the majority of cases, the Board approves the application with conditions, which means that there are additional administrative or technical requirements, which must be satisfied to obtain the full approval.
- (2) Timing. Perhaps the most commonly asked question about an application to a planning board is "how long will it take?" There is no standard answer. At a minimum, there must be a meeting with the Board, and this alone requires at least 15 days lead-time. Boundary Line Adjustments and Minor Subdivisions are often approved at a single meeting. Major Subdivisions, however, require a minimum of two meetings and are likely to take two to three months to complete. However, this general answer is all based on the assumptions that the applicant is properly prepared, and that no unusual circumstances arise. Without the applicant's consent, however, it is very unlikely that an application process can take longer than six months.

SECTION 2.00: APPLICATION PROCESS.

2.01 PRELIMINARY CONCEPTUAL CONSULTATION. This meeting shall be directed at a review of the basic concept of the proposal and suggestions, which might be of assistance in resolving problems with meeting requirements during final consideration. The Board and applicant may discuss proposals in conceptual form only and in general terms such as desirability of types of development and proposals under the Master Plan. The presentation to the Board of new surveys, engineering plans or similar materials shall require the Design Review process to be followed, so the Chairman must be careful to keep these discussions at a general level. Typically, maps from the Master Plan, tax maps, county soil survey maps and the like are acceptable levels of generality upon which to base these discussions. Such consultation shall not bind either the applicant or the Board, and statements made by Board members shall not be the basis for disqualifying said members or invalidating any action taken. Such discussion may occur without the necessity of giving formal public notice, but such discussions may occur only at formal meetings of the Board. Preliminary conceptual consultation meetings are strictly optional to the applicant.

2.02 DESIGN REVIEW.

- (A) The Board and applicant may engage in non-binding discussions beyond conceptual and general discussions, addressing more specific design, planning and engineering details, provided that the design review may proceed only after formal public notice is provided. Statements made by Board members shall not be the basis for disqualifying said members or invalidating any action taken. The applicant shall pay appropriate public notice fees as specified in §2.06(B), and shall provide all required materials and information required for public notice per §2.10 and §2.11. Design Review meetings are strictly optional to the applicant, but such meetings can be helpful in identifying and resolving problems in an application prior to major design investments by the applicant.
- (B) The Design Review meeting is especially appropriate for receiving comments on the general road plan of a Major Subdivision per §2.16(A), and for reviewing the concepts for an Open Space Development subdivision.

2.03 BOUNDARY LINE ADJUSTMENT. The application for a Boundary Line Adjustment shall be made to the Board, and shall follow the process specified in §2.06 through §2.20 of this Regulation. Approved plans shall be signed and recorded at the Rockingham County Registry of Deeds.

- (A) The applicant shall submit to the Board the following:

- (1) Correctly completed application form, signed by the owner.
 - (2) Abutters list, with: correct abutters, dated within five days of submittal, and signed by preparer, with accompanying adhesive mailing labels.
 - (3) Payment of fees for administration per §2.06(A)(1), and public notice per §2.06(B)(2).
 - (4) three paper copies of final plans complying with all requirements of §4.00.
 - (5) copy of application for State Subdivision approval if the application affects the location or setback of an existing or proposed septic system.
- (B) The Board will generally use the Checklist for Application Completeness; Boundary Line Adjustment Application, provided in §6.00, to ensure completeness prior to accepting the application. The applicant is encouraged to use this checklist to ensure the submittal contains all needed information and materials.
- (C) Time and budget permitting, the Board will generally have written reviews of the application prepared by a professional planner, and a Professional Engineer where appropriate. Where possible, these written reviews should be prepared and available one week prior to the meeting at which application acceptance will be considered. The reviews will address both application completeness and compliance with applicable laws, regulations and ordinances. Additional reviews may be prepared in the case of applications, which take more than one meeting. Applicants may pick up copies of the written reviews at the Town Offices as soon as they are available to the Board.
- (D) Board members should visit the site prior to the meeting to familiarize themselves with the site, although individual Board members should not discuss the application with the applicant except at the Board's meetings. The Board may, by motion, require a site visit prior to application approval.

2.04 MINOR SUBDIVISION. The application for a Minor Subdivision shall be made to the Board, and shall follow the process specified in §2.06 through §2.20 of this Regulation. Approved plans shall be signed and recorded at the Rockingham County Registry of Deeds.

- (A) The applicant shall submit to the Board the following:
- (1) Correctly completed application form, signed by the owner.

- (2) Abutters list, with: correct abutters, dated within five days of submittal, and signed by preparer, with accompanying adhesive mailing labels.
 - (3) Payment of fees for administration, per §2.06(A)(2), and public notice, per §2.06(B).
 - (4) three paper copies of final plans complying with all requirements of §4.00.
 - (5) Documentation that the following applications and correspondence has been submitted: letters to the appropriate Town officials regarding local permits and reviews, for issues including but not limited to connection to the municipal water and/or sewer systems, connection to the municipal storm water drainage system, and emergency services review.
- (B) The Board will generally use the Checklist for Application Completeness; Minor Subdivision Application, provided in §6.00, to ensure completeness prior to accepting the application. The applicant is encouraged to use this checklist to ensure the submittal contains all needed information and materials.
- (C) Time and budget permitting, the Board will generally have written reviews of the application prepared by a professional planner, and a Professional Engineer where appropriate. Where possible, these written reviews should be prepared and available one week prior to the meeting at which application acceptance will be considered. The reviews will address both application completeness and compliance with applicable laws, regulations and ordinances. Additional reviews may be prepared in the case of applications, which take more than one meeting. Applicants may pick up copies of the written reviews at the Town Offices as soon as they are available to the Board.
- (D) Board members should visit the site prior to the meeting to familiarize themselves with the site, although individual Board members should not discuss the application with the applicant except at the Board's meetings. The Board may, by motion, require a site visit prior to application approval.

2.05 MAJOR SUBDIVISION. The application for a Major Subdivision shall be made to the Board, and shall follow the process specified in §2.06 through §2.20 of this Regulation. Approved plans shall be signed and recorded at the Rockingham County Registry of Deeds.

- (A) The applicant shall submit to the Board the following:

- (1) Correctly completed application form, signed by the owner.
 - (2) Abutters list, with: correct abutters, dated within five days of submittal, and signed by preparer, with accompanying adhesive mailing labels.
 - (3) Payment of fees for administration, per §2.06(A)(2), and public notice, per §2.06(B).
 - (4) Copies of plans, as follows:
 - (a) one mylar plan, at a scale of 1:12,000, showing the original lot's boundaries and proposed road layout, and depicting the surrounding area and roads sufficient to locate the mylar plan on the Town Base Map. This plan is to be used to evaluate the road function and layout, per §2.16(A).
 - (b) three paper copies of plans indicating existing property boundaries per §4.10(A), existing conditions per §4.10(B), municipal and zoning district boundaries per §4.10(C), and the 100-year floodplain per §4.10(E).
 - (c) three paper copies of sketched plans, which show conceptual plans for the proposed conditions on the property, per §4.10(F). These plans shall be used by the Board to evaluate the proposal with respect to its intermediate decisions on road function and layout, and scattered or premature development.
 - (5) Documentation that the following applications and correspondence has been submitted:
 - (a) letters to the appropriate Town officials regarding local permits and reviews, for issues including but not limited to connection to the municipal water and/or sewer systems, connection to the municipal storm water drainage system, and emergency services review.
- (B) The Board will generally use the Checklist for Application Completeness; Major Subdivision Application, provided in §6.00, to ensure completeness prior to accepting the application. The applicant is encouraged to use this checklist to ensure the submittal contains all needed information and materials.
- (C) Time and budget permitting, the Board will generally have written reviews of the application prepared by a professional planner, and a Professional Engineer where appropriate. Where possible, these written reviews should be prepared and

available one week prior to the meeting at which application acceptance will be considered. The reviews will address both application completeness and compliance with applicable laws, regulations and ordinances. Additional reviews may be prepared in the case of applications, which take more than one meeting. Applicants may pick up copies of the written reviews at the Town Offices as soon as they are available to the Board.

- (D) Board members should visit the site prior to the meeting to familiarize themselves with the site, although individual Board members should not discuss the application with the applicant except at the Board's meetings. The Board may, by motion, require a site visit prior to application approval.

2.06 FEES. In accordance with RSA 676:4,I(g), the applicant shall pay the following fees to compensate the Town for its expenses in processing, noticing and reviewing each application:

- (A) Administration: (note: amended 03/18/03)
 - (1) Lot Line Adjustment: \$70
 - (2) Major Subdivision: \$500.00 plus \$175/lot
 - (3) Minor Subdivision: \$250.00 plus \$75/lot
- (B) Public Notice: (note: amended 03/18/03)
 - (1) \$40.00 per newspaper notice; plus
 - (2) \$7.00 per abutter or other party notified.
- (C) Recording: The applicant shall reimburse the Town the cost of recording at the Rockingham County Registry of Deeds, with specific amounts as set by the Register of Deeds.
- (D) Other costs incurred by the Board in reviewing the application, as limited in §5.02, may be passed through to the applicant by the Board, unless specifically waived.
(amended 03/18/03)

2.07 COMPLETE APPLICATION. For the Board to have authority to approve an application, the applicant must provide a complete application per RSA 676:4,I(b). Specific lists of materials required to comprise a complete application submittal are listed, by type of application, in §2.03, §2.04, and §2.05. Applications which appear to the staff

to be complete shall be scheduled on the next available Board agenda for consideration.

2.08 SUBMITTAL OF APPLICATION MATERIALS. All materials to be submitted to the Board for consideration shall be submitted prior to the meeting so that Board members, the public, and staff may have sufficient opportunity to review the application without unnecessarily rushing the review and/or delaying the proceedings of the meeting. The following shall apply:

- (A) Application Acceptance. In accordance with RSA 676:4,I(b), all materials required to constitute a complete application shall be submitted to the Board at least 15 days prior to the meeting at which it will be considered for application acceptance, except that this shall be increased to 21 days when it is determined that there may be a potential regional impact per §2.11.
- (B) Other Public Hearings. New materials shall be submitted to the Board at least 14 days prior to a meeting when a new public notice is required.
- (C) Continued Meetings. When consideration of an application is continued and new information is required, the Board shall specify the deadline for filing this new information. In no case shall it be less than one day prior to the meeting. The deadline shall be stated in the motion to continue.

2.09 APPLICATION FOR OTHER PERMITS/APPROVALS.

- (A) The Board shall not grant a final approval to an application until all other government permits and approvals are obtained. The only exception to this requirement shall be when State or Federal permits require prior local approval. Applicants are advised to apply early for these other approvals to avoid unnecessary delays in obtaining final approval of the Subdivision application, but applicants with Major Subdivisions are advised to delay applications to the State until general design guidance has been provided by the Board.
- (B) **Concurrent Application.** Where the proposed development requires approval under both the Subdivision Regulations and the Site Plan Review Regulations, a concurrent application may be required by the Board. The applicant shall provide all materials required for complete applications for both regulations (see Subdivision Regulations §2.07 and Site Plan Review Regulations §2.07), except that the public notice fees shall not be paid twice.

2.10 PUBLIC NOTICE. Public notice pursuant to RSA 676:4,I(d) shall be required for all applications. The public notice shall identify the property owner, the location, and a general description of the scope and purpose of the proposal.

- (A) Public notice shall be required for the following:
 - (1) design review meetings;
 - (2) meetings at which an application is considered for acceptance; and
 - (3) meetings at which a public hearing is conducted.
- (B) Public notice shall be mailed to the applicant, the applicant's authorized representative, any professional (surveyor, engineer, architect, soil scientist) whose stamp and signature appear on any of the plans or other materials submitted as part of the application package, and each abutter at least 10 days prior to the meeting for which the notice is required. Such notification shall be mailed by certified mail.
 - (1) Using the Abutters List form provided in §6.00 of this Regulation, the applicant shall prepare a list of abutters using Town records no sooner than 5 days prior to the submittal of the application; and

- (2) The applicant shall provide three adhesive mailing labels for each party on the abutters list, including the applicant and authorized representative. The labels shall be no larger than 1" by 2.75" in size.
- (C) Public notice shall be posted at the Town Offices at least 10 days prior to the meeting.
- (D) Public notice for Minor Subdivision and Major Subdivision applications, but not for Boundary Line Adjustment applications, shall be published in a newspaper of general circulation. This notice shall be sent to the newspaper at least 10 days prior to the meeting.
- (E) Continuation of a meeting or public hearing shall not require new public notice provided that, at the prior meeting or hearing, the Board shall state the location, date, and time at which the continued session shall resume per RSA 676:4,I(d).

2.11 REGIONAL NOTICE. In accordance with RSA 36:54-58, applications which might have a regional impact shall require additional public notice, and by State law require additional time for public notice.

- (A) Determination of potential regional impact shall be found only for applications defined as Major Subdivisions, and further which meet any of the following criteria:
 - (1) Any portion of the property is located within 500 feet of the border of the Town of Newmarket;
 - (2) The proposal involves 20 or more residential units;
 - (3) The proposal involves property located on the shore of Great Bay; or
 - (4) other as the Board may reasonably determine.
- (B) Notice shall be sent by certified mail 14 days in advance of the scheduled public hearing to the Strafford Regional Planning Commission (for impacts in Durham or Lee) and/or the Rockingham Planning Commission (for impacts in Epping, Newfields, Stratham, Greenland or Newington), and to each town reasonably likely to be affected, with each governmental entity to be considered an abutter for purposes of offering testimony and computing public notice fees.

2.12 APPLICATION ACCEPTANCE. Before an application is reviewed by the Board, it

must be accepted by a formal vote of the Board. The applicant shall attend this meeting to ensure that questions can be answered and issues clarified as necessary. Per RSA 676:4,I(b), the Board shall vote to accept the application only if determines that the application is complete per this Regulation. Upon acceptance, review of the application may proceed. If an application is not accepted, the Board may proceed with Design Review discussions per §2.02. The Design Review meeting may be continued to another date and time for Application Acceptance without further public notice.

- 2.13 APPLICANT'S PRESENTATION.** Following application acceptance, the applicant shall make a brief, general presentation to the Board and audience. This presentation should include a brief description of the proposed project and a general description of the design, layout, and so forth. The applicant may list specific issues of concern which they would like the Board to discuss during deliberations, but this forum is only intended to ensure general familiarity with the application. The applicant is solely responsible for bringing any audio-visual materials or equipment needed. The Chairman shall have sole authority to limit the time taken for this presentation to keep the meeting moving, and applicants should plan on 10 minutes or less for most applications. For applications, which are reviewed over a series of meetings, this presentation may be appropriate at the beginning of each session.
- 2.14 PUBLIC HEARING.** The Board shall open a public hearing following application acceptance and the applicant's presentation. The purpose shall be to solicit public input, comments, questions and concerns. The Chairman may temporarily suspend public comment during the public hearing so that the Board may deliberate, vote of waivers, and so forth. The public hearing may be continued if additional meetings are necessary, provided that the Board follows the continuation procedures specified in §2.10(E). Only when all pertinent, new public input is complete shall the Chairman close the public hearing. The applicant shall be responsible for attending the public hearing, including all continuations, to ensure that questions can be answered and issues clarified as needed.
- 2.15 DELIBERATION.** The Board shall deliberate as necessary to determine the appropriate decision. The deliberation does not necessarily follow the public hearing, and may be interspersed with the public hearing, or may occur prior to the public hearing. This is the appropriate forum for the applicant and Board to discuss specific issues. The Board should keep in mind, however, the purpose of the public hearing, and therefore should generally defer decisions until after relevant public input is received.
- 2.16 INTERMEDIATE DECISIONS.** Deliberations for each application will be unique, but there are several intermediate decisions, which may be particularly applicable in certain

cases:

- (A) Major Subdivision Road Function and Layout. For Major Subdivision applications only, the Board shall first review the general function and layout of the proposed or potential roads on the entire property. Final plans for Major Subdivisions should not be prepared until after this review has taken place.
 - (1) Purpose. The importance of this step cannot be understated. Establishing the layout of roads and property boundaries has an important impact on the character and function of the community. Roads can detract from the neighborhood, or they can enhance it. Traffic circulation and safety can be enhanced or impaired in the neighborhood and in affected surrounding areas. New development can relate in a positive or negative manner to the existing developments nearby. Among the most influential and long lasting determinants of these functions are the establishment of the road network and property boundaries, and for this reason the general proposal should be reviewed and generally approved before further details are worked out.
 - (2) This decision shall be based on the Board's initial opinion regarding the proposal with respect to the Road Design Objectives described in §3.02(A), including traffic function, road layout, scale and aesthetics. Of particular importance at this point of the review is an assessment of the general pattern of the road network, how well it fits into and connects with the adjacent road network, how the road design will affect its traffic functions, how the road design fits into the features of the site, and how the transportation functions will relate to the land use functions when the site is fully developed.
 - (3) If the applicant so chooses, this discussion and a tentative decision can occur during a Design Review meeting, per §2.02. The decision of the Board must be confirmed following application acceptance since the Design Review is non-binding by State law. The advantage to using the Design Review process for this purpose would be to permit the applicant to receive feedback on the general road plan prior to investing time and money in the final design, hopefully resulting in monetary savings and quicker approval of the application. If the Design Review meeting is not used for this purpose, the Board shall not review and approve a Major Subdivision application in one meeting. It shall proceed through this intermediate decision, and shall continue the discussion of the details to a later meeting prior to discussing any other details pertaining to roads or lots.
- (B) Scattered or Premature Development. The Board may deny an application if it determines that the proposed development would be scattered or premature. If the

Board is considering denial of an application on this ground, it shall first determine, by majority vote, that the application, if approved, would be scattered or premature by virtue of one or more the reasons listed in §1.01(A) and RSA 674:36,II(a). In making this determination, the Board shall specify the exact nature of its concerns. Prior to denying an application on this basis, the Board shall provide the applicant, if the applicant is agreeable, with sufficient time to determine whether or not there is any reasonable way to modify the proposal or to directly mitigate the adverse impacts in a manner such that the proposal would no longer be considered scattered or premature.

2.17 DECISION. Pursuant to RSA 676:4,I(c), the Board shall issue a decision within 90 days of application acceptance, subject to time extensions as per RSA 676:4,I(f). Applications, which are not accepted, require no decision. The Board must approve, conditionally approve, or disapprove the application as follows:

- (A) Approval. The Board shall grant approval to an application when it fully complies with the standards and processes of this Regulation and other applicable law.
- (B) Conditional Approval. The Board may grant conditional approval to an application when minor additional action by the applicant will bring the application into full compliance for approval. This may include the posting of financial securities, payment of fees, minor changes in design, and other matters, subject to the requirements of §2.17(C)(2), and RSA 676:4,I(i). These statutory requirements are summarized as follows:
 - (1) Minor plan changes, whether or not imposed by the Board as a result of a public hearing, compliance with which is administrative and which does not involve discretionary judgment; or
 - (2) Conditions which are in themselves administrative and which involve no discretionary judgment on the part of the Board; or
 - (3) Conditions with regard to the applicant's possession of permits and approvals granted by other governmental units.
- (C) Disapproval. The Board shall disapprove an application when it fails to comply with the standards and/or procedures of this Regulation, for failure to meet reasonable deadlines established by the Board, or for failure to pay fees.
 - (1) If the Board includes the phrase, "without prejudice" in the motion to disapprove, it signifies that the application was denied solely for

procedural reasons, and that it may be re-submitted to the Board at a later date without design changes, but shall be subject to the codes in effect at the time of the new application. Applications disapproved without this stipulation shall not be considered again by the Board unless the applicant demonstrates that there have been design changes or changes in regulations affecting the application.

- (2) Conditional Approvals shall be valid for a period of not more than six months. If the conditions of the approval have not been satisfied within this time, the conditional approval shall automatically lapse. The Planning Board may grant a single six-month extension to accommodate unusual circumstances, but the applicant is required to provide a written request for extension to the Board before the expiration date. The Board shall consider the request at its next regular meeting, and such action shall not require a public hearing.

2.18 NOTICE OF DECISION. As required by RSA 676:3, within 72 hours of the meeting the Board shall issue a Notice of Decision which states the final decision reached by the Board regarding the application.

- (A) In the case of a conditional approval, the Notice of Decision shall state all conditions to be met for final approval.
 - (1) In the event that the conditions are satisfied, the Board shall issue a supplemental Notice of Decision stating that the application is approved since all conditions have been satisfied, and shall sign and record the plat(s) if applicable.
 - (2) In the event that the conditions are not satisfied, the Board shall issue a supplemental Notice of Decision stating that the application is denied for failure to comply with the conditions of approval in a timely manner.
- (B) In the case of a disapproval, the Notice of Decision shall state the reasons for denial as required by RSA 676:4,I(h) and RSA 676:3,I.

2.19 APPEALS. Any person aggrieved by any decision made in the course of applications pursuant to this chapter may appeal as follows:

- (A) Decisions by the Planning Board based solely upon interpretation of the Zoning Ordinance may be appealed to the Zoning Board of Adjustment or Rockingham Superior Court per the provisions of RSA 676:5,III. Appeals to the ZBA must be filed within 20 days, and appeals made to Superior Court must be filed within 30 days.
- (B) All other decisions by the Planning Board may be appealed to Rockingham County Superior Court per the provisions of RSA 677:15. There is a 30-day time limit in which to make an appeal.
- (C) The time limit for appeals begins on the day on which the Planning Board decision is filed and first becomes available for public inspection. Per §2.18, this should occur within 72 hours of the Board's decision.

2.20 REVOCATION OF APPROVAL. The Board may act to revoke an approval per the requirements of RSA 676:4-a.

SECTION 3.00: DESIGN STANDARDS.

3.01 CHARACTER OF THE LAND. The Board shall consider the physical character of the land involved, including soils types, slopes, drainage characteristics, exposure to sunlight and wind, wildlife habitat, potential views, and other such characteristics, in determining what action to take with respect to the application.

- (A) An application to subdivide land of such character that it cannot, in the judgment of the Board, be safely used for the proposed purposes because of danger to public health or safety shall not be approved.
- (B) Where the character of the land is not adequately considered, the Board may require modification of the application to enhance the function and quality of the development, or to reduce adverse impacts resulting from the development.
- (C) Lots shall contain contiguous areas of developable land such that the driveway, building, water supply and sewage disposal, and other improvements can be constructed without filling of wetlands or other such adverse impacts, which could be eliminated by different subdivision design. The number of lots may be reduced by the Board to reduce adverse impacts. The Board shall have the authority to require design changes to minimize impacts regardless of the actions of other local or State permitting actions, such as the issuance of a permit to fill wetlands for a driveway crossing.
- (D) Site lot lines shall generally be at right angles or radial to street lines.

3.02 ROADS. This section represents a compilation of sources on this complex and important subject. Among the sources are: Residential Street Design and Traffic Control (by Homburger, Deakin, et al; Institute of Transportation Engineers. Prentice Hall, Englewood Cliffs, NJ. 1989.) and "Neo-Traditional Neighborhood Design and Its Implications for Traffic Engineers," by Eva Lerner-Lam, Stephen P Celniker, Gary W. Halbert, Chester "Rick" Chellman, and Sherry Ryan, Compendium of Technical Papers, 61st Annual Meeting of the Institute of Transportation Engineers, 1991. Some of the text of this section is quoted from these sources, but there has been no attempt to provide specific quotations. The understanding of these authors is greatly appreciated by the Town of Newmarket.

- (A) Design Objectives. Before road design can be addressed, the Town's design objectives must be laid out as clearly as possible so that the design professionals can understand what is expected of them, and to develop a better understanding of the multiple demands placed on road design. First and foremost, roads must be recognized as complex public spaces, which accommodate and impact traffic,

parking, pedestrians, bicyclists, and aesthetics, among other things. Road design objectives are further categorized and specified as follows:

- (1) **Traffic Function.** Roads must accommodate safe access to properties, convenient and efficient pickups and deliveries, emergency access, maintenance services, and other such uses. The overall road system should provide for sufficient number and layout of collectors and arterials to handle through traffic flow as one means of protecting local residential streets from through traffic. Further, local residential streets shall be linked to traffic carrying streets in a way that simultaneously provides good access to other parts of the community and region and minimizes the chances of residential streets' use by through traffic. Further, residential streets should be protected from vehicles moving at excessive speeds, typically greater than 25 to 30 MPH. The design engineer is challenged to balance this last provision against RSA 265:60,II, which dictates higher speed limits in most cases. Proper access management is essential in protecting the traffic capacity of arterial roads.
- (2) **Road Layout.** The general layout of roads shall be a regular, inter-connected, geometric, angular (as opposed to curvilinear) pattern so that there are alternative routes to most, if not all destinations. The layout of proposed roads shall provide for the continuation of the principal streets in adjoining areas, if applicable. The number of permanent cul-de-sacs shall be minimized. Suitable connections and reservation for future connections to remaining lands and adjacent lots shall be provided. Layout geometry shall be designed to take advantage of the topography and proposed future development patterns, creating vista terminations and improving the view of, and the view from buildings and other prominent vistas. Layout shall also be carefully designed to avoid creation of a situation where the local road is used for through traffic flow.
- (3) **Scale.** The scaling of the facility must facilitate the appropriate level of sharing of road use among cars, walkers, bicycles, emergency vehicles and others. The final product shall permit comfortable and safe pedestrian and bicycle movements as well as motorized vehicular movements, and shall protect vulnerable users such as children, the disabled, and the elderly.
- (4) **Aesthetics.** Road design should enhance the overall aesthetics of the neighborhood through well-designed street layout and landscaping. Additionally, recreation areas in the form of commons or public squares should be used as focal points and vista terminations. Aesthetics must be achieved through the thoughtful integration of all aspects of design, and cannot simply be "added on" to a design.

- (5) Quality Construction. Regardless of the outcome of the more policy-oriented layout and function issues of the road system, the construction of roads shall be of high quality. Roads shall be constructed to standards suitable for the climate, the environment in which they are built, and for the proposed use. The resulting road should require a minimal amount of maintenance for quite many years.
- (B) Design Standards. Although it is the intent of these Regulations to provide design parameters to guide overall design, it is the responsibility of the engineer designing the road to apply her or his professional expertise in creating the design. Additionally, the Town shall have another engineer review the design for compliance with the purposes and controls of this Regulation as well as with accepted engineering practices. It should be noted that the Board expects to create only local roads, and that more suitable standards for design and construction shall be required for collectors and arterials should such functions be proposed or expected.
- (1) Design speed of local roads shall be 30 MPH. This may be altered where necessary to comply with RSA 265:60,II(c), except that 30 MPH shall be the maximum design speed if the speed limit can be reduced to 30 MPH or less per RSA 265:62.
 - (2) The grade of a road shall not be less than 1% nor greater than 8%. The maximum grade of a road approaching an intersection shall be 3% within 50' of the intersection.
 - (3) All roads shall have a road crown of at least 1/4" per 1'.
 - (4) All roads shall be paved. The minimum width of pavement per travel lane shall be 12'. Curbing shall be required as specified in §3.03(A) or §3.03(B). Where no curbing or where Cape Cod curbing is required, gravel shoulders at least 4' in width shall be required on each side of the road.
 - (5) The centerline of a cul-de-sac shall be aligned with the centerline of the street. The surface of the pavement shall slope away from the center of the cul-de-sac. Temporary cul-de-sacs shall be provided, with easements for their construction and use as appropriate, in locations where future connections are planned but cannot be provided at the time of development. Where connections can be made, they shall be made.
 - (6) Except as provided herein, driveway locations shall not be specified on the subdivision plan, but the sight distances along the frontage shall be protected. Safe stopping and intersection sight distances shall meet or

exceed the standards specified in the Transportation and Traffic Engineering Handbook (ITE, Second Edition, Prentice-Hall, Englewood Cliffs, NJ, 1982, pp 590-3).

- (a) For access onto State highways, driveway location consistent with the State Driveway Permit shall be shown.
- (b) For subdivisions fronting on arterial roads, the number of driveway accesses onto the arterial road shall be minimized:
 - [1] access onto internal roads rather than the arterial road shall be required to the extent possible; and
 - [2] a single shared driveway shall be required for adjoining lots, which must access directly onto the arterial road.
- (7) No point along a road centerline shall be more than 1,000' from a single point of access in the road network. This requirement is similar to a maximum cul-de-sac length standard, but applies more broadly to the cul-de-sac and the adjacent road network.
- (8) Roads shall intersect at 90 degrees, plus or minus 15 degrees.
- (9) Other safety provisions may be required if appropriate, including but not limited to curbing and guardrails.
- (10) The designer shall prepare a report which documents how the proposed design complies with the design Objectives listed in §3.02(A).
- (C) Property Issues.
 - (1) The minimum width of any road right-of-way shall be 50'. A larger width may be required where conditions warrant. Additionally, flairs or curve radii may be required at intersections where such provisions would be beneficial.
 - (2) Reserve strips which restrict access to the right-of-way from adjacent lots or roads shall be prohibited.
 - (3) Easements for cut and fill slopes, drainage, water lines, sewer lines and other such improvements shall be provided as appropriate.
 - (4) The application shall specify ownership and responsibility for maintenance of the right-of-way and all improvements therein.

Subdivision approval in no way implies Town acceptance of any road or right-of-way, and in no way obligates the Town in any future consideration of such acceptance.

(D) Construction.

- (1) Only that portion of the right-of-way shall be cleared and grubbed as is necessary to meet safety requirements. Where possible, preservation of existing vegetation, ground cover and especially trees is highly desirable. The extent of clearing shall be noted on the plans. Excavation of roadbeds shall consist of removing earth or ledge to a depth of at least 2' below the finished roadbed grade shown on the final profile. Filled roadbeds shall be formed by spreading successive layers of fill material not greater than 6" in depth. Each layer shall be compacted to a density of at least 95% of maximum density before another layer is begun. Material containing loam, forest litter, wood, roots, or other substances that will not provide a stable bed or embankment shall not be used. Broken ledge may be used in layers in fills over 4' in thickness. The voids in each layer shall be filled with earth or spalls. Broken ledge or boulders larger than 1/2 cubic yard shall not be placed within 2' of the finished grade.
- (2) Types of materials and methods of construction shall be in accordance with "New Hampshire Standard Specifications," 1983, Section 304, hereby incorporated into this Regulation by reference.
 - (a) Minimum base course depth shall be not less than 18" of gravel, topped with 3" of crushed gravel. Additional base material may be required depending on the nature of the land.
 - (b) Two courses of pavement shall be required:
 - [1] base course of not less than 2" thickness. The base course pavement shall go through one winter freeze-thaw cycle prior to adding the wear course so that problems can be identified and corrected properly.
 - [2] wear course of not less than 1" thickness.
- (3) Stumps and other debris shall not be disposed of in the right-of-way.
- (4) Bridges with a span of 10' or more shall be designed to HS-20 loading specifications (AASHTO Specifications, hereby incorporated into these regulations by reference).
- (5) Side slopes cut in soil above the finished roadway shall not exceed a ratio

of 3' horizontal to 1' vertical, and shall be graded, covered with 4" (compacted depth) of topsoil, and suitably seeded. Side slopes in ledge above the finished roadway shall not exceed a ratio of 1' horizontal to 2' vertical. Embankment slopes away from the edge of the finished roadway shall not be constructed at a ratio steeper than 4' horizontal to 1' vertical unless the horizontal length exceeds 10', in which case a ratio of 3' horizontal to 1' vertical may be used.

- (6) Because of the nature of the design and construction of roads, certain design modifications are made in the field on virtually every construction project. The Board acknowledges that such changes will be necessary from time to time, and authorizes the inspecting engineer representing the Town to exercise their professional judgment in making such changes, and asks that the engineer remember the purposes of this Regulation and this Section in making their judgment.

(E) Traffic Impact Analysis.

- (1) A traffic impact analysis shall be required in the following circumstances:
 - (a) the subdivision involves the creation of 20 or more residential lots or residential units;
 - (b) the subdivision is intended to facilitate non-residential land uses; or
 - (c) other, as deemed necessary by the Board.
- (2) The traffic impact analysis shall be prepared by a NH licensed Professional Engineer. This analysis shall be prepared to meet, at a minimum, the "Guidelines for Traffic Impact Analysis" (by the Strafford Regional Planning Commission, dated July 1986: copy available for viewing at Town Hall).

(F) Other.

- (1) Grade Stakes. The applicant shall be responsible for placing grade stakes at 50' intervals adjacent to the road course where there are abrupt changes in grade and at 100-foot intervals where a more level contour is present. Each stake shall be securely placed where it will not be disturbed by construction. Each stake will indicate a station number, its offset from the centerline of the road, and the extent of cut or fill to the finished centerline grade. Grade stakes shall be preserved until the completion of the road. If grade stakes are removed or damaged to the extent that they cannot be

read, it shall be the responsibility of the applicant to replace them.

- (2) Road Names. Proposed road names shall not duplicate any existing road name in Newmarket, and shall be approved in advance by the Town Council. Each road name shall be adequately identified with a road name sign at each intersection. Upon completion of the road, the applicant shall notify the Town Clerk, who shall notify the Commissioner of the NH Department of Transportation of the new road, as required per RSA 231:133,III.
- (3) Clean-up. Before release of any financial security, a road shall be cleaned up, by whatever means necessary, so that it is left in a neat and presentable condition. Construction-related debris of all kinds, both natural and man-made, shall be completely removed from the right-of-way.
- (4) All roads shall have such traffic control signs as are necessary to provide for safety and efficiency. It shall be the applicant's responsibility to provide and install all required signs.
- (5) Subdivision along a Class VI road, or any private road, shall not be approved unless the applicant upgrades such road to meet the design standards of this Regulation. The provisions of RSA 231:28 may be applicable.
- (6) Road Acceptance. Acceptance of any road by the Town is the sole responsibility of the Town Council, and approval of a subdivision plan by the Planning Board shall not imply or compel acceptance of the road by the Town. While a private road, the applicant shall make adequate provisions for the on-going maintenance of the road.

3.03 DRAINAGE. All roads shall be provided with adequate provisions for storm water drainage to removal storm water and prevent flooding of the road and erosion of adjacent surfaces.

- (A) Connection to the municipal storm drainage system shall be required if available within 100 feet of any boundary of the property, or as otherwise determined necessary by the Board.
 - (1) The system shall be designed and constructed in accordance with standards and specifications of the Town of Newmarket.
 - (2) Where drainage facilities are not available at the time of application but will become available in the future, as indicated by inclusion in the Capital Improvements Program, the applicant shall install a municipal storm drain system, ready for connection to the municipal system at the time of its expansion, and shall provide for temporary control of drainage in the interim period.
 - (3) Storm water runoff shall be carried away in a subsurface piped storm sewer system. Such drainage facilities shall be located in the street rights-of-way where feasible. Where topography or other conditions are such as to make this impractical, perpetual unobstructed easements for future maintenance, repair and upgrade of the system shall be provided across all properties. Such easements shall be 25' or more in width, and shall have satisfactory access to the road. Drainage easements shall be carried from the road to a natural watercourse or other drainage facility.
 - (4) The road design shall be modified to include curbing to channel storm water into the drainage system. Where curbing is required, it shall be granite. (Amended May 23, 2000)
- (B) Lacking connection to the municipal storm drainage system, the subdivision shall be designed with provisions for retention and gradual release of storm water. All additional storm water and runoff which results from the proposed development shall be retained on-site and shall not drain onto adjacent roads, nor onto adjacent properties or into waterways in an amount which exceeds predevelopment levels unless appropriate drainage easements are obtained.
 - (1) Where the road frontage of the lots in the subdivision, or a portion thereof, averages 150' or more per lot, an open ditch and swale drainage system may be used.
 - (2) Where the road frontage of the lots in the subdivision, or a portion thereof,

averages less than 150' per lot, an enclosed drainage system shall be required. Additionally, the road design shall be modified to include a Cape Cod curb to channel storm water into the drainage system. There shall be no breaks in the Cape Code curb as this would eliminate its effectiveness for drainage control. Driveways shall require travel over the Cape Cod curb.

- (C) Drainage plans and a written report, prepared and certified by a licensed NH Professional Engineer, shall be submitted with the application. Design and construction of drainage facilities shall be in accordance with "New Hampshire Standard Specifications, 1983", Sections 603, 604 and 605, hereby incorporated into this Regulation by reference.
- (D) Drainage facilities shall be designed to accommodate a 25-year storm event. A culvert or other such component shall be large enough to accommodate potential runoff from its entire upstream drainage area. On-site retention or detention facilities may be required to prevent overloading of existing downstream facilities, or improvement to the downstream facilities may be required. No standing water shall be permitted in ditches, culverts or catch basins. No water shall be permitted to run across road surfaces.

3.04 PEDESTRIAN, BICYCLE AND TRANSIT AMENITIES. Adequate provisions shall be made to accommodate pedestrians, bicyclists and transit service.

- (A) Pedestrians. For subdivisions near the downtown, sidewalks shall be provided as follows:
 - (1) Sidewalks shall be installed along Route 108 in front of any lots fronting on the road between its intersection with Bennett Way to the south and to the Durham town boundary to the north.
 - (2) Sidewalks shall be installed along Route 152 in front of any lots fronting on the road between its intersection with Route 108 to the east and to its crossing of the Piscassic River to the west.
 - (3) Sidewalks shall be installed along one side of any new road constructed within 1/2 mile of either of the portions of Route 108 or Route 152 listed in subsections (1) or (2) above.
 - (4) To the extent the development will be the primary beneficiary from adequate connection to the main sidewalk network in Town, connection from the site to the network may be required by the Board.

- (B) Bicycles. Road design shall take adequate consideration of the need to safely accommodate bicyclists in residential neighborhoods, in the village, and in commercial areas.
- (C) Transit. The Town desires to encourage transit use. Therefore, any subdivision, which would create 25 or more lots or residential units, shall contact the manager of the COAST system to determine if facilities or design provisions to accommodate transit service to the development are necessary now or in the near future. Future expectations shall be based only upon adopted capital and operations plans for COAST and/or the Seacoast Metropolitan Planning Organization. The applicant shall provide all needed facilities and design changes.

3.05 SURVEY MONUMENTATION. Proper and complete survey monumentation shall be installed on the properties involved prior to final approval of the application.

- (A) Granite bounds shall be set at the intersection of existing or proposed lot sidelines with existing or proposed streets. The size of such bounds shall be 4" by 4" by 30", with a 3/8" drill hole in the center. The surveyor shall excavate a hole sufficiently large enough to properly place the bounds securely in the ground.
- (B) Iron pins (pipe or rod) are to be placed at all property line corners and angles, and at all points of curvature and points of tangency. The size of pins shall be 1/2" diameter by 30" long, and shall be driven into the ground at accurate locations, leaving 2" exposed. All newly installed pins shall include a surveyor's "cap" to help identify their location in the field.
- (C) Certificate of Monument Installation. The applicant's surveyor shall certify in writing that the bounds and pins have been installed according to the submitted plan, using the form entitled "Certification of Monument Installation." This form must be completed and submitted to the Board prior to receipt of final approval of the application. A copy of this form is contained in §6.00.

3.06 WATER SUPPLY. All subdivisions shall provide adequate water supply for consumption. Water supply for fire safety is addressed separately in §3.10(B).

- (A) Municipal Water Supply. The applicant shall comply with the Newmarket Water System Ordinance. In the absence of such a code, connection to the system shall be required if distribution lines are located 100' of any part of the original lot, and such connection shall conform with all requirements established by the Public Works Director.

- (B) Non-Municipal Water Supply. In areas outside of the municipal water supply service area, provisions shall be made for on-site water supply or connection to a community water supply system. The well location and its protective radius, if required by the State, shall be indicated on the plat. All community water supply systems and facilities shall be designed by a NH licensed Professional Engineer specializing in Civil Engineering. Unless owned by the Town, the Town shall not be responsible for a community water system.
- (C) All lots shall have sufficient water supply to provide for consumption.

3.07 SEWAGE DISPOSAL. All subdivisions shall provide for adequate and sanitary disposal of sewage.

- (A) Municipal Sewer Service Area. Compliance with the Newmarket Sewer Use Ordinance shall be required. In the absence of such a code, connection to the system shall be required if collection lines are located within 100' of any part of the original lot, and such connection shall conform with all requirements established by the Public Works Director.
- (B) In areas outside of the municipal sewer service area, sufficient area shall be reserved for on-site sewage disposal. Unless otherwise specified by the State, a 4,000 square foot area suitable for the siting of a septic system shall be designated on each lot.

3.08 UTILITIES. Utilities shall generally be located within the road right-of-way, well behind any curb and never closer than the ditch line.

- (A) Where utility transmission lines are not located within the road right-of-way, perpetual unobstructed easements for future maintenance, repair and upgrade of the system shall be provided across all properties. Such easements shall be 15' or more in width, and shall have satisfactory access to the road.
- (B) Easements for proposed or future utility connections to adjacent properties may be required by the Board.
- (C) Street lights shall be required at every street intersection. Additional mid-block lighting may be required as appropriate.
- (D) In accordance with RSA 674:36(III), all utilities shall be installed underground. The installation of overhead wires and utility poles are prohibited. Where connections to existing overhead utilities are required, the utilities must be

submerged as soon as practical within the developed site. (Amended 08/14/01)

3.09 LANDSCAPING. Landscaping requirements for subdivision approval are limited to establishment or re-establishment of suitable vegetative ground cover to ensure site stability, and to provision of street trees where needed.

- (A) **Vegetative Ground Cover.** No disturbed area shall be left permanently exposed and unprotected. Sufficient topsoil shall be provided and suitable grasses or other vegetation shall be established as quickly as possible to stabilize the site and prevent excessive erosion. Interim erosion control measures shall be provided as needed, but shall be removed when the ground cover is established and the site is stabilized.
- (B) **Street Trees.** Where an road is proposed through an open field, or where the existing vegetation will be removed or is of a character such that the road will get no shade in the summer, street trees shall be planted at regular intervals, not to exceed 100', along both sides of the right-of-way where appropriate. Such trees shall have a caliper of at least 3" at a point six inches above the top of the root ball, and shall be of a suitable hardwood species to ensure that the road is not shaded in the winter. Further, the Board may require removal of coniferous trees along the road where it finds that shade from such trees could cause icing problems.

3.10 EMERGENCY SERVICES. There shall be adequate provisions for emergency service access to all lots. There may be some trade-offs required when balancing the desire to maintain the scale of a neighborhood versus the desire to provide access sufficient for emergency vehicle access.

- (A) All applicants shall provide a copy of the subdivision plan to the Police Department and Fire Department for their reviews and comments. While their input will weigh heavily, the Board reserves the final authority to make design decisions.
- (B) **Water for Firefighting.** At a minimum, there shall be a source of water for firefighting along a Class V or better road within 1 mile of each lot or building site proposed. Sources shall be limited to the following:
 - (1) a fire hydrant connected to the municipal water supply system;
 - (2) a fire hydrant connected to a community water system, which has sufficient storage volume and flow;
 - (3) a dry hydrant connected to an underground storage tank with a sufficient

water supply and capacity;

- (4) a dry hydrant in a fire pond or other standing water body with sufficient volume; or
- (5) other as determined acceptable to the Fire Chief.

3.11 RECREATIONAL AMENITIES.

- (A) Neighborhood Parks. Recreation lands in close proximity to residences are an important amenity in neighborhoods. In general, small areas of land reserved for open space and passive recreation, or developed for other forms of active recreation shall be required for each Major Subdivisions which is not designed as an Open Space Development and which creates, or has the potential to create, 25 or more lots or residential units, as follows:
 - (1) At a minimum, one park shall be provided. For subdivisions, which have the potential for 50 or more residential lots or units, two parks shall be provided.
 - (2) The area of all park lots shall include at least two acres of contiguous developable land.
 - (3) Where possible, the design and intended use of the neighborhood parks should be consistent with the layout of roads, as is discussed in §3.02(A)(4).
 - (4) The applicant shall place a permanent deed restriction on each recreation lot, deeming it a non-buildable lot. Further, the deed restriction shall specify permitted types of recreation development are permitted. The deed restriction shall be shown on the plat, and shall be filed at the Rockingham County Registry of Deeds.
 - (5) Ownership.
 - (a) The parks, if owned and maintained privately, may have restricted access. Further, provisions shall be made to ensure sufficient funding for ongoing maintenance of the park and its facilities, for payment of property taxes, and other such expenses.
 - (b) If such areas are offered to and are accepted by the Town, they shall be open to the general public, and there shall be sufficient nearby on-street parking.

- (6) If acceptable to the Board, public access to Great Bay or the Lamprey River may be substituted for all of the required parks.
- (B) **Public Access.** It is in the public interest to establish and maintain public accesses to Great Bay and the Lamprey River. Such access may include provisions for direct water access, or may be for other uses, which are enhanced by close proximity to the waters such as walking paths, picnic areas, and scenic overlooks. Where such amenities can be incorporated into the application, it would be appreciated by the Board and the Town. To qualify, public accesses must be permanently available to the general public.

3.12 MITIGATION OF IMPACTS. Where, in the opinion of the Board, the off-site impacts of a proposed development would adversely affect the public health, safety, convenience, prosperity or general welfare of the Town, the Board may require off-site improvements to mitigate the adverse impacts.

3.13 FLOODPLAIN STANDARDS. All subdivisions and other proposed new development shall be designed to be reasonably safe from flooding. If any portion of the property subject to an approval under this Regulations is within the 100-year floodplain, the proposal shall:

- (A) Be designed consistent with the need to minimize flood damage;
- (B) Have all public utilities and facilities such as water, sewer and electrical systems located and constructed to minimize or eliminate flood damage; and
- (C) Provide drainage systems adequate to reduce exposure to flood hazards.

SECTION 4.00: PLAT STANDARDS.

- 4.01 SIZE.** Full size plat sheets shall measure 22" tall by 34" wide or smaller sizes as acceptable by the Rockingham County Registry of Deeds, and reduced size plats shall measure 11" tall by 17" wide, or 8 1/2" tall by 11" wide.
- 4.02 MATERIAL AND NUMBER OF COPIES.** The applicant shall provide three or more paper copies of each full size plat sheet and one paper copy of each reduced size plat sheet. Copies of plat sheets to be recorded shall be printed on mylar, or other material as specified by the Rockingham County Registry of Deeds.
- 4.03 BASIC INFORMATION.** All plat sheets shall contain the following:
- (A) Title Block. The title block shall indicate the:
 - (1) title of the sheet;
 - (2) owner's name;
 - (3) applicant's name, if other than owner;
 - (4) tax map and parcel number; and
 - (5) name and address of the person or company which prepared the sheet.
 - (B) Scale. The scale of the plan shall be given in text and graphic form.
 - (C) North Arrow.
 - (D) Dates. Each sheet shall indicate the date of original preparation, and the date and nature of each revision.
- 4.04 BOUNDARY SURVEY PLANS.** The plat sheet(s), which provides the required boundary or other survey information, shall be stamped and signed by a N.H. Licensed Land Surveyor. The surveyor shall certify on the plans that, "All plans meet the current standards as set forth by the N.H. Joint Board of Licensure and the N.H. Land Surveyors Association."
- 4.05 ENGINEERING PLANS.** The plat sheet(s), which provides any required engineering information shall be stamped and signed by a N.H., licensed Professional Engineer. This shall include all road designs, drainage plans, community or municipal water system plans, and municipal sewer system plans.
- 4.06 APPROVAL SHEET(S).** In addition to those items required per §4.03 and §4.04, the

plat sheet(s) on which the Planning Board will indicate approval shall have:

- (A) a 2" tall by 4" wide empty space reserved for the Board's written endorsement, which shall be indicated by a municipal approval stamp and signature of the Chairman of the Board;
- (B) a note indicating the title and most recent date of revision for all supplemental plat sheets;
- (C) a locus map showing the location of the property within the municipality; and
- (D) Notes providing the following information:
 - (1) indication of all existing or proposed easements of record, covenants and deed restrictions.
 - (2) indicate the zoning district, including applicable overlay districts, if such districts exist.
 - (3) area of each lot.
 - (4) length of road frontage for each lot.
 - (5) list of waivers and substitutions granted by the Board.
 - (6) any other development restrictions, limitation or requirements.

4.07 MULTIPLE SHEETS. Where the size of the property and the scale of the plat require multiple sheets, match lines shall be provided.

4.08 SCALE. A scale of 1" equals 100' is the recommended scale, although other scales which provide a greater level of detail and accuracy may be used.

4.09 AREA OF COVERAGE. Plans submitted for approval under this Regulation shall depict the entire area and boundary of each lot, except as follows:

- (A) **Boundary Line Adjustment.** Each lot of 5 acres or less in area shall be shown in its entirety. For lots larger than 5 acres, the plan shall depict a portion of the lot, at least 5 acres in size, which includes the area from the boundary line adjustment to the nearest road frontage. Additionally, the entire road frontage of both lots shall be included for any proposed changes, which would alter the amount of

frontage on a lot.

4.10 SITE INFORMATION. The set of plans submitted shall provide the following information about the site:

- (A) Boundary survey of the existing property boundaries, indicating:
 - (1) distances, deflection angles, radii, arc lengths, control angles, monument locations, and other necessary survey data;
 - (2) the names of all abutters, including map and parcel numbers;
 - (3) roads, right-of-ways, intersections and driveways within 50' of the lot;
 - (4) location and nature of easements of record, deed restrictions and covenants; and
 - (5) references to deeds, earlier surveys, and other pertinent information as determined by the LLS.
- (B) Existing conditions on the property, showing:
 - (1) elevation contours:
 - (a) for Boundary Line Adjustments, this shall not be required.
 - (b) for Minor Subdivisions and Major Subdivisions, contours at 2' intervals shall be required, except that lots, which will remain 10 acres or more, shall require 5' contour intervals.
 - (2) delineation of hydric soils on the entire lot shall be required. This work shall be conducted by a NH Licensed Soil Scientist. Additionally, soil types and boundaries per the Rockingham County Soil Survey shall be indicated. Poorly and very poorly drained soils shall be clearly labeled as such. In locations where the boundary of such soils is important in evaluating the proposed design of the subdivision, the Board may require the applicant to provide a high intensity soil survey, conducted by a NH Licensed Soil Scientist.

- (3) existing buildings, wells, septic systems, water lines, sewer lines, drainage facilities, utilities and other such improvements, in plan view, with description of uses and sizes, if applicable.
 - (4) approximate location of buildings, wells and septic systems, in plan view, within 100' of the site.
 - (5) surface waters, stalls, and other significant natural and man-made resources.
- (C) Municipal and zoning district boundaries, including base and overlay districts.
- (D) Setback lines.
- (E) Elevation of 100-year floodplain, or the extent of the 100-year floodplain as otherwise defined by FEMA.
- (F) Proposed conditions on the property, showing:
 - (1) boundary survey of the existing and proposed property boundaries, showing all information provided for §4.10(A), plus distances, deflection angles, radii, arc lengths, control angles, monument locations, and other necessary survey data for proposed property boundaries.
 - (2) proposed contours at 2' intervals in areas where changes are proposed.
 - (3) buildings in plan view for subdivision plans being concurrently reviewed for Site Plan Review approval.
 - (4) proposed use(s), if other than single family residential.
 - (5) plans for transportation, providing all information required to assess compliance with §3.02 (Roads) and §3.04 (Pedestrian, Bicycle and Transit Amenities). For road plans, cross sections at 100' stations and a centerline profile shall be provided.
 - (6) plans for drainage, providing all information required to assess compliance with §3.03 (Drainage).
 - (7) plans for water supply, sewage disposal, utilities, and firefighting water supply, providing all information required to assess compliance with §3.06 (Water Supply), §3.07 (Sewage Disposal), §3.08 (Utilities), and §3.10(B) (Water for Firefighting).
 - (8) plans for landscaping, providing all information required to assess

compliance with §3.09 (Landscaping).

- (9) plans for recreational amenities, providing all information required to assess compliance with §3.11 (Recreational Amenities).
 - (10) each lot shall be numbered according to the Town's tax map numbering system.
 - (11) location of a test pit and percolation test on each lot, with results provided in an accompanying report.
- (G) For subdivisions with new roads, a design sketch of the streetscape of the development when fully built out, to help permit the Board and abutters to visualize the development.

SECTION 5.00: ADMINISTRATION.

5.01 WAIVERS OR SUBSTITUTIONS. The Board may waive a portion of this Regulation, or permit substitution of an alternative standard for one in this Regulation only as specified in this Section.

(A) **Waivers.** The Board may grant a waiver of any Design Standard (§3.00) or Plat Standard (§4.00) of this Regulation in accordance with the following:

- (1) The applicant shall provide a written request for waiver. The request shall specify the section for which the waiver is requested, the extent of the waiver, and the justification. Where multiple waivers are being requested, a separate request shall be provided for each.
- (2) In evaluating the request, the Board shall not grant the waiver unless it finds that:
 - (a) granting of the waiver shall not be detrimental to the public health, safety or general welfare;
 - (b) granting of the waiver shall not, in the opinion of the Board, be injurious to other parties;
 - (c) granting of the waiver shall not have the effect of nullifying the intent and purpose of this Regulation; and
- (3) The Board may condition any waiver granted so as to secure the objectives of this Regulation.

(B) **Substitutions.** In the event that an alternative Design Standard (§3.00) is provided, the Board may permit substitution for the Town design standard. Such substitution shall be permitted at the Board's option only when, in the Board's opinion, the alternative standard is independently and scientifically derived, is generally accepted by the planning community, and would better accomplish the intent of this chapter for this case. The request for a substitution shall be made in writing, and a complete copy of the alternative design standard shall be provided to the Town for its records (i.e.: provide a copy of applicable books, articles, etc). Substitution shall require a formal motion of the Board, and the minutes of the meeting should indicate the Board's reasoning for future reference. No waiver is required for design standard substitutions.

5.02 TECHNICAL ASSISTANCE. In the event that the Board requires technical assistance and/or special studies to adequately and properly evaluate an application or perform subsequent inspections, it may secure such professional assistance. This may include

planning reviews, engineering review, legal reviews, special studies, and other such assistance. The applicant shall reimburse the Town for the cost of such assistance, but the individual or company engaged shall work for, and report directly to the Town.

5.03 RECORDING APPROVED PLANS. Upon stamping and signing an approved final plan, the Town shall deliver the mylar plan to the Rockingham County Registry of Deeds to ensure that there is no tampering with the plans prior to recording, and to ensure that there is no delay in recording the plan such that the delay would extend the protection period under RSA 674:39. A signed paper copy of the plan shall be retained by the Town for its records, and additional paper copies of the plan may be signed for the applicant, surveyor, and others.

5.04 FINANCIAL SECURITIES. The applicant shall be required to provide financial securities for site improvements in accordance with the following:

- (A) Use. Suitable financial securities shall be provided to ensure that the applicant will complete all site work in accordance with the plans. The securities, if called by the Town, may be used to stabilize the site, ensure site safety, minimize any adverse impacts on the neighborhood and Town, complete the work, and prepare the as-built plans. In the event that the security is called by the Town, the Board may schedule and hold a public hearing to consider revocation of the Subdivision Approval per the process of RSA 676:4-a. The Board may request that all municipal permits be suspended until the matter is resolved.
- (B) Amount. The amount shall be 100% of the cost of all site work, excluding site work covered by other financial securities held by other governmental entities (such as for State driveway permits). The specific dollar amount shall be negotiated with the Town Administrator.
- (C) Form of Security. The form of financial security, and all associated agreements or stipulations shall be negotiated with the Town Administrator. At a minimum, the Town shall accept cash, a joint passbook account, and an irrevocable letter of credit. The Town shall have full access to these securities in the case that the Town must utilize them to secure the purposes of this section.
- (D) Other Requirements. If requested by the applicant, there shall be a provision for reducing the amount of the security as work is completed, but the Town shall retain sufficient security at all times to ensure that it can fulfill all remaining purposes. The Town retains the right to apply cost escalation factors to protect against inflation. The Town retains the right to specify time deadlines for the completion of any or all improvements.

5.05 APPROVAL REQUIRED. Prior to land clearing, site preparation, construction or any other such activity may begin on a site, and before any municipal permit for such activity may be issued, approval under this Regulation is required. All activity on the site shall be in accordance with the approval.

5.06 AS-BUILT PLANS.

- (A) The Board requires that the applicant prepare and submit to the Public Works Director a set of as-built plans for all roads, underground drainage systems, and underground utilities. All such as-built plans shall meet the current standards as set forth by the N.H. Joint Board of Licensure and the N.H. Land Surveyors Association.
- (B) The only as-built subdivision plan, which the Board will approve from the effective date of this Regulation forward, is a plan showing the location of structures on condominium property. Such plans shall:
 - (1) Be certified to be correct, and stamped and signed by a N.H. Licensed Land Surveyor;
 - (2) Be accompanied by Certificates of Occupancy, if applicable;
 - (3) Clearly identify in the title block exactly what the as-built plan is approving (especially where the plan depicts only some of multiple units as being completed); and
 - (4) Have the following plat note printed on each sheet, "These as-built plans are pursuant to, and without modification of the original Planning Board approval, and meet the current standards set forth by the N.H. Joint Board of Licensure and the N.H. Land Surveyors Association."

5.07 ENFORCEMENT. The Code Enforcement Officer, or other duly appointed designee of the Town Council, shall be responsible for enforcement.

5.08 INSPECTIONS. The Town shall hire, at the applicant's expense, a qualified consultant to perform inspections during the construction of roads, drainage facilities, water systems, sewer systems, and other improvements as appropriate. Inspection shall be sequenced to ensure that work is properly completed throughout the project in accordance with the approved plans.

- (A) For road construction, there shall be inspections following grubbing & clearing, following preparation and compaction of the subgrade, during placement of base course materials, prior to binder coarse paving, prior to wear coat paving, and upon completion of all work. Cut or fill slopes shall also be subject to inspection and approval.
- (B) All underground utilities shall be inspected and approved prior to burial.
- (C) Water and sewer inspections shall be required as specified by the Public Works Director at the time of approval.
- (D) The developer shall be responsible for notifying the inspection consultant at each of the construction phases, and may request additional inspections at any time during construction. Failure to provide adequate notification will result in a delay of the approvals and release of the financial security. If any part of the work is found to be inadequate, the Town may order the deficient work to be reconstructed prior to its acceptance. All requests shall be made at least three working days prior to the desired inspection.
- (E) The inspector shall be responsible for maintaining a record of each inspection. At a minimum, the records shall contain the date of inspection, improvement or portion inspected (identified by station or other reasonable means), conditions found, and actions taken (approval or disapproval). Reasons for disapproval shall be supplied to the developer, in writing, within 48 hours of the inspection.

5.09 COMPLIANCE WITH OTHER CODES. The Subdivision Regulations in no way relieve an applicant from compliance with the Zoning Ordinance, the Site Plan Review Regulations, or any other code or requirement adopted by the Town or any other governmental unit. In the event that the requirements of this Regulation are in conflict with the other codes, the more stringent shall apply. This is also required by RSA 676:14.

5.10 SAVING CLAUSE. If any clause, portion or section of this Regulation is found invalid by a court of competent jurisdiction, this finding shall not invalidate the remainder of this Regulation.

SECTION 6.00: APPLICATION FORMS & CHECKLISTS.

SUBDIVISION APPLICATION FORM
Newmarket Planning Board

TYPE OF APPLICATION. Please circle one:

Boundary Line Adjustment

Minor Subdivision

Major Subdivision

PROPERTY OWNER.

Name: _____

Daytime Phone #: (_____) _____

AUTHORIZED REPRESENTATIVE.

Name: _____

Firm: _____

Daytime Phone #: (_____) _____

SITE IDENTIFICATION. Please complete:

Tax Map: _____ Parcel: _____

Street Address: _____

Zoning District(s): _____

PROJECT DESCRIPTION.

(Attach additional pages if needed)

FEES SUBMITTED WITH APPLICATION. Enter amount: \$_____

CERTIFICATION. I hereby certify that all information presented as a part of this application is, to the best of my knowledge, correct.

Signature of Owner: _____ Date: _____

FOR OFFICE USE ONLY

CALCULATION OF FEES:

POTENTIAL REGIONAL IMPACT? YES NO

DATES:

APPLICATION RECEIVED: _____

ABUTTERS LIST PREPARED: _____

APPLICATION ACCEPTANCE: _____

PUBLIC HEARING(S) AND OTHER MEETINGS: _____

DECISION: _____

ABUTTERS LIST
Newmarket Planning Board

Instructions:

1. List the map, parcel, name and mailing address of the property owner and all abutters as shown in Town records not more than 5 days prior to submittal, per RSA 676:4,I(b). This may be typed on a separate sheet. If using another sheet or multiple sheets, please indicate the date of preparation and sign your name on each sheet.
2. As applicable, list the name, mailing address, daytime phone number and fax number of: the Applicant's Authorized Representative; and any surveyor, engineer, architect or soil scientist whose stamp and signature appear in the application materials.
3. Please attach three adhesive mailing labels for each entry on the list. Label size must not exceed 1" tall by 2.75" long.

Map	Parcel	Owner	Mailing Address
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
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_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Date of preparation: _____

I hereby certify that all information presented on this form is, to the best of my knowledge, correct.

Signature of preparer: _____

Town of Newmarket: Certificate of Monument Installation

Subdivider's Name: _____

Tax Map and Parcel: _____

Surveyor of Approved Plan: _____

Date of Planning Board Approval or Conditional Approval: _____

Number of granite bounds required by Approved Plan: _____

Number of iron pins required by Approved Plan: _____

"I hereby certify that the monumentation required on the above referenced subdivision plan has been accurately installed under my supervision and said monumentation complies with §3.05 of the Newmarket Subdivision Regulations."

Signature of Surveyor: _____ Date: _____

Surveying Company: _____ Telephone: _____

